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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Akitomo OHBA

Serial No.: 10/827,238

Group Art Unit: 2132

Filed: April 20, 2004

Examiner: Benjamin E. Lanier

For: FINGERPRINT AUTHENTICATION SYSTEM AND METHOD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO
ELECTION OF SPECIES REQUIREMENT

Sir:

In response to the Office Action dated January 8, 2008, please consider the following:

REMARKS

In response to the Examiner's Election of Species requirement, Applicant hereby elects with traverse for prosecution on the merits the invention of Species 2 (claims 10-11 and 15-16) which are readable. Claims 2-4, 6-8, 13, and 18 are generic to all species. Applicant reserves the opportunity to file a Divisional Application for the non-elected invention later.

Applicant respectfully traverses the Election of Species Requirement for the following reasons. Applicant respectfully submits that the subject matter of all claims 1-18 is sufficiently related that a thorough search for the subject matter of any one group of claims would necessarily encompass a search for the subject matter of the remaining claims. Thus, Applicant respectfully submits that the search and examination of the entire application could be performed without serious burden.

M.P.E.P. § 803 clearly states that “[i]f the search and examination of the entire

application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions" (emphasis added). Applicant respectfully submits that the Examiner has clearly failed to provide a *prima facie* showing of a serious burden by failing to provide "by appropriate explanation of separate classification, or separate status in the art, or a different field of search" (M.P.E.P. § 803).

Applicant respectfully submits that the policy requiring examination of an entire application even though it may include distinct inventions, should be applied in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office. Applicant respectfully requests reconsideration and withdrawal of the restriction requirement and to examine all claims in this application.

Early, favorable prosecution on the merits is respectfully requested.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A conditional petition is made for any extension of time which may become necessary. The Commissioner is authorized to charge any fees for such extension and to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,



Jeoyuh Lin, Esq.
Registration No. 56,032
Sean M. McGinn, Esq.
Registration No. 34,386

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McGinn IP Law Group, PLLC
Intellectual Property Law
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817
(703) 761-4100
Customer No. 21254